

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

<p>COLLIN PETER FRANZKY,  Plaintiff,</p> <p>vs.</p> <p>SOUTH DAKOTA HUMAN SERVICES CENTER, JEREMY JOHNSON ADMINISTRATOR,  Defendant.</p>	<p>4:21-CV-04013-RAL</p> <p>ORDER GRANTING EXTENSION OF TIME TO RESPOND BUT DENYING MOTIN TO APPOINT COUNSEL</p>
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Plaintiff Collin Peter Franzky (Franzky) filed a § 1983 complaint pro se against Defendant South Dakota Human Services Center (SDHSC), Doc. 1, and paid the \$402.00 filing fee. SDHSC filed a motion to dismiss, Doc. 8, and supporting memorandum, Docs. 9, 10. Franzky then filed three motions: 1) a motion to extend time to respond, Doc. 11; 2) a motion seeking appointment of counsel, Doc. 12; and 3) an application to proceed in forma pauperis, Doc. 13.

SDHSC filed its motion to dismiss on March 4, so under Local Rules, Franzky would have until March 25 to respond. Franzky is proceeding pro se and this Court sees no prejudice to SDHSC to grant Franzky additional time to respond to the motion to dismiss. Franzky paid the filing fee, so his motion for IFP status likely is related to his motion for appointment of counsel. “A pro se litigant has no statutory or constitutional right to have counsel appointed in a civil case.” Stevens v. Redwing, 146 F.3d 538, 546 (8th Cir. 1998). In determining whether to appoint counsel to a pro se litigant, the court considers the complexity of the case, the ability of the litigant to

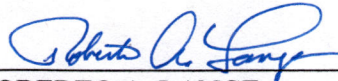
investigate the facts, the existence of conflicting testimony, and the litigant's ability to present his claim. Id. The facts of Franzky's claims do not appear to be particularly complex, he appears to already know most of the facts necessary to prosecute his case, and his complaint sets forth his claims. This Court denies Franzky's request for counsel. His motion to proceed IFP is denied without prejudice to refiling if he seeks waiver of some future fee or court cost. Therefore, it is hereby

ORDERED that Franzky's motion to extend time to respond, Doc. 11, is granted and Franzky has until April 26, 2021, to respond to the motion to dismiss. It is further

ORDERED that Franzky's motion to appoint counsel, Doc. 12, and motion to proceed IFP, Doc. 13, are denied without prejudice to later refiling if circumstances in this case change.

DATED this 29th day of March, 2021.

BY THE COURT:



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ROBERTO A. LANGE  
CHIEF JUDGE